

Top Stop and its insurance carrier, Workers Compensation Fund (referred to jointly as "Top Stop" hereafter), ask the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of Cottonwood Hospital's claim to payment for medical services allegedly provided to N. L. G. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUE PRESENTED**

On or about March 14, 2005, Cottonwood Hospital filed an application with the Commission to compel Top Stop to pay for medical care the hospital had provided to Mr. G. Cottonwood's application alleged that the subject medical care was necessary to treat injuries Mr. G. had suffered while employed by Top Stop on May 6, 2004. On that basis, Cottonwood asserted that Top Stop was liable under the Utah Workers' Compensation Act for the reasonable cost of Mr. G.'s medical care.

Top Stop responded to Cottonwood's application by asserting that Mr. G. was not employed by Top Stop on the alleged date of injury. Then, on March 27, 2006, Top Stop filed a motion for summary judgment against Cottonwood, again based on the assertion that Mr. G. was not Top Stop's employee at the time of injury.

In the face of Top Stop's motion for summary judgment, Cottonwood withdrew its application and asked that its claim against Top Stop be dismissed. On April 5, 2006, Judge La Jeunesse dismissed Cottonwood's claim.

Top Stop now requests review of Judge La Jeunesse's order of dismissal on the grounds that Judge La Jeunesse should have rule on the merits of Top Stop's motion for summary judgment.

### **DISCUSSION**

It appears to the Commission that Cottonwood's withdrawal of its application in this matter effectively puts an end to its claim against Top Stop. While it is theoretically true that Cottonwood could file another application and thereby reinstitute its claim, such a course of action appears unlikely. Furthermore, if Cottonwood were to take such action, Top Stop could simply reassert the motion for summary judgment that has already been prepared and filed in this proceeding. Under these circumstances, the Commission concludes that no real benefit would be gained by further adjudication of this matter. The Commission therefore concurs with Judge La Jeunesse's dismissal of Cottonwood's application.

### **ORDER**

The Commission affirms Judge La Jeunesse's decision and denies Top Stop's motion for review. It is so ordered.

Dated this 7<sup>th</sup> day of June, 2006.

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R. Lee Ellertson  
Utah Labor Commissioner